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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: **Bruley, et al.** Conf. #: **2127**
Serial No.: **10/605,128** Art Unit: **2814**
Filed: **09/10/2003** Dkt. #: **FIS920030230US1**
Title: **CAPACITOR AND FABRICATION
METHOD USING ULTRA-HIGH
VACUUM CVD OF SILICON NITRIDE** Examiner: **Weiss, Howard**

OFFICIAL

COMMISSIONER FOR PATENTS

DESTINATION FACSIMILE NUMBER: **703-872-9306**

Transmitted herewith is: **Response to Restriction Requirement in 3 pages**
in the above identified application.

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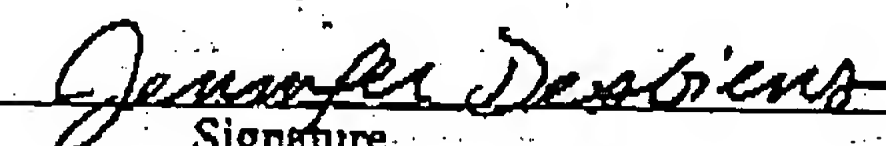

Spencer K. Warnick, Reg. No. 40,398

DATE: May 19, 2004

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Examiner: Weiss, Howard

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Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

I. INTRODUCTORY COMMENTS

This paper is being filed in response to the Restriction Requirement mailed on 04/30/2004. Applicants hereby provisionally elect Group II (claims 1-19), with traverse.

10/605,128

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II. REMARKS

Claims 1-20 are pending in this application. By this Response, Applicants elect Group II (claims 1-19). Prompt examination on the merits is respectfully requested.

In the Restriction Requirement, the Office asserts that the device of claim 20 could be made without using an ultra-high vacuum, as in claim 1. Applicants disagree with this conclusion. In particular, Applicants urge that other methods known in the art are incapable of producing a capacitor comprising a layer of silicon nitride having monolayer quantities of silicon nitride.

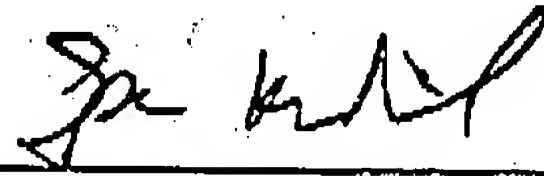
In addition, Applicants submit that there are other, more significant, grounds that justify searching the two Groups together. Specifically, Applicants submit that the subject matter of Groups I (claim 20) and II (claims 1-19) are sufficiently related that a thorough search for the subject matter of the Group II invention would encompass a search for the subject matter of the Group I invention.

Thus, it is respectfully submitted that the search and examination of Group II will encompass all of the subject matter of Group I, and thus a search for both Groups could be made without serious burden. Sec MPEP § 803 in which it is stated: "if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examining by the Office.

In view of the foregoing, Applicants respectfully request withdrawal of the Restriction Requirement between Groups I and II. Should the Examiner require anything further from

Applicants, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



Spencer K. Warnick
Reg. No. 40,398

Date: 5/19/04

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